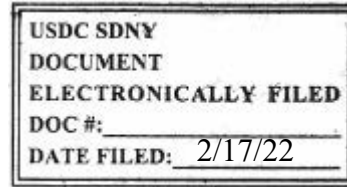


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



Poindexter O. Ebalu,

Plaintiff,

—v—

New York City Police Department, et al.,

Defendants.

21-cv-6476 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On February 16, 2022, Defendants filed a motion to dismiss the complaint pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course. However, since Plaintiff is proceeding *pro se*, he shall be given additional time to amend the complaint. Accordingly, it is hereby ORDERED that if Plaintiff intends to file an amended complaint, he shall do so by March 18, 2022. Plaintiff is hereby advised that any amended complaint will completely replace the original complaint. Accordingly, if Plaintiff files an amended complaint, it should include all of the information he believes is necessary to make a short, plain statement explaining why he is entitled to relief against each defendant. Plaintiff is on notice that declining to amend his pleadings to timely respond to a fully briefed argument in the Defendants' February 16, 2022 motion to dismiss may well constitute a waiver of the Plaintiff's right to use the amendment process to cure any defects that have been made apparent by the Defendants' briefing. *See F5 Cap. v. Pappas*, 856 F.3d 61, 90 (2d Cir. 2017) (upholding denial of leave to amend where plaintiff had "an opportunity to amend in response to full briefing of the defendants' motion to dismiss").

If Plaintiff chooses to amend, Defendants may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that they intend to rely on the initially-filed motion to dismiss.

IT IS FURTHER ORDERED that if no amended complaint is filed, Plaintiff shall serve

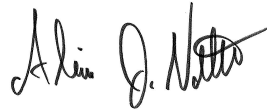
his opposition to Defendants' motion to dismiss by March 18, 2022. Defendants' reply, if any, shall be served by April 1, 2022. At the time any reply is served, Defendants shall supply Chambers with a courtesy copy of all motion papers by mailing or delivering them to the United States Courthouse, 40 Foley Square, New York, New York.

IT IS FURTHER ORDERED that either party may request an extension of the briefing schedule for the motion. A deadline will be extended if the party demonstrates that its pursuit of the action has been diligent and that there is a good reason for extending the deadline.

The Clerk's office is respectfully direct to mail a copy of this Order to Plaintiff and to note the mailing on the docket.

SO ORDERED.

Dated: February 17, 2022
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", is positioned above a horizontal line.

ALISON J. NATHAN
United States District Judge